

NEW HAMPSHIRE EXECUTIVE BRANCH

ETHICS COMMITTEE

**OFFICE OF THE ATTORNEY GENERAL
ROOM 302**

**FEBRUARY 7, 2007
8:00 AM**

The meeting was called to order by Chairman David L. Nixon.

Roll Call taken. Present: David L. Nixon, John Barthelmes, John Blair, Dale Kuehne, Douglas O'Brien, Patricia Quigley, and Deborah Schachter. Also present Deputy Attorney General Bud Fitch.

Inquiry 2007 -014 - Official Advisory Opinion 2007-001

May a member of a professional licensing or regulatory board/commission who is a member of the regulated profession or who is otherwise subject to the regulations set by the board/commission vote on the adoption of such regulations without violating the conflict of interest prohibition of RSA 21-G:22?

Pat Quigley made a motion to adopt this response. Dale Kuehne seconded the motion.

The draft response adopted the Attorney General's prior opinion responding to the inquiry.

Amendment accepted by Pat Quigley that the proposed opinion be adopted subject to the editorial corrections, as necessary, by the AG's Office. Doug O'Brien, Dale Kuehne seconded.

The motion passed unanimously.

Inquiry 2006-015 – Official Advisory Opinion 2007-002**May a department solicit sponsorship from regulated companies/persons for training to be conducted by the State?**

Deborah Schachter moved to adopt the draft response, seconded by Dale Kuehne. The motion was to add at the end of the last sentence of the Summary Answer the phrase: “unless such solicitation is approved in advance by the Governor as a gift by the proposed sponsor to the State.” Also, the last sentence of the Conclusion paragraph would be amended to read “unless such solicitation is approved in advance by the Governor as a gift by the sponsor to the State.”

The Committee discussed the necessity of agencies seeking Governor and Council approval before soliciting training by regulated companies and persons.

Chairman Nixon will communicate to the Governor’s Office that this is what the Commission is proposing in draft form.

Bud Fitch will draft a response incorporating the above language along with his recommendations. The draft will be subject to Committee approval, as well as review and comment by the Governor’s Office.

The motion passed unanimously.

Inquiry 2007-016 – Official Advisory Opinion 2007-003**May a state employee who has earned frequent flyer mileage as a result of state reimbursed travel use the free flights for personal purposes? Or must the free flight be used for state travel?**

John Blair moved to adopt the draft response, seconded by Dale Kuehne.

Discussion ensued addressing the need to include legal citations in the draft and the State process of requesting State employees to use personal credit cards when traveling.

The motion passed unanimously.

Inquiry 2007(6)017 – Official Advisory Opinion 2007-004

Is it lawful to use Department/Agency letterhead to send an employment reference for a person who was not employed by and who had done work for the Department?

Pat Quigley moved to adopt the draft response, subject to redraft by the Attorney General's Office, for submission at the next meeting. John Blair seconded.

After discussion, the Committee amended the Question Presented to read "has not done work for the Department" rather than "and who had done work for the Department.". The draft Summary Answer is "No", which is not consistent with the draft Conclusion. This discrepancy will be reconciled in the next draft..

The motion passed unanimously.

Inquiry 2007-018 – Official Advisory Opinion 2007-005

May a state employee accept free transportation to an event that the employee is attending in his or her official capacity from a person who is employed by the regulated entity?

Pat Quigley moved to adopt the draft response, seconded by Deborah Schachter.

The motion passed unanimously.

Inquiry 2007-017 – Official Advisory Opinion 2007-006

An employee of the state has agreed to accept employment with a private corporation. That employment will begin in several months and the employee will remain in his or her state employment during that period of time. The future employer responded to a Request for Proposals ("RFP") issued by the employee's department/agency. The employee was not involved in the issuing or evaluating of the RFP. The future employer has been awarded the contract. The departing state employee will recuse himself or herself from any contract administration and does not expect to work on the state contract after beginning employment with the corporation. Has the employee satisfied all requirements of the ethics law?

John Barthelmes moved to adopt the draft response, seconded by Doug O'Brien, subject to review by legal counsel for legal sufficiency.

The motion passed unanimously.

Inquiry 2006-020 –

May a board or commission member receive compensation for teaching seminars that persons subject to the regulation of the board or commission are required to attend?

A conflict of interest would arise under two different situations, only one of which was addressed in AG opinion. Decision-making authority was discussed, as well as financial benefits and regulatory relationship. RSA 21-G:23. A subcommittee will prepare a draft opinion for the next meeting.

Inquiry 2006-21 – Official Advisory Opinion 2007-007

Are members of a statutorily established executive branch advisory commission who are not appointed by the Governor, Governor and Executive Council, the President of the Senate, or the Speaker of the House required to file a statement of financial interest?

Dale Kuehne moved to adopt the draft response, seconded by Doug O'Brien.

There was discussion about who reviews statements of financial interests and whether those reviewers have adequate staffing.

The motion passed unanimously.

Inquiry 2006-22 – Official Advisory Opinion 2007-008

May a state employee attend a small celebratory event, held to recognize private-public collaboration which lead to the adoption of a law?

This inquiry pertains to a particular agency. Consideration was deferred for final drafting and submission at the next meeting.

Other Business

There was discussion about developing a consistent process. The Committee discussed adopting appropriate answers to inquiries as they come in, subject to editorial and substantive review by the AG's Office. All final official opinions would be signed off on by Commission members. The Committee will start numbering opinions sequentially in order of adoption. The members determined that the future practice should be to send electronic draft responses to Bud Fitch. The Attorney General's Office will e-mail final opinions to Committee members prior to meetings to facilitate their review of the documents prior to signing off on them.

Educational tools and user guidelines should be developed to facilitate use of the advisory opinions.

Other matters were deferred to the next meeting, except the election of a Secretary. The Committee previously elected Dale Kuehne as Vice Chair, with the Governor appointing David Nixon as Chair. As the statute also calls for a Secretary, John Blair volunteered to serve in that position. There being no further nominations, the Committee voted unanimously to elect John Blair as Secretary of the Committee.

The next meeting will be held February 21, 2007, 8:00 a.m. at the Attorney General's Office.

All members voted in favor of adjourning at 9:29 a.m.

Respectfully submitted,

Pamela Murphy

Pamela Murphy
Recording Secretary

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